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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,177	10/28/2003	Richard N. Anderson	HUN.233	4293
24062 7590 04/06/2007 CAMORIANO & ASSOCIATES 8225 SHELBYVILLE ROAD LOUISVILLE, KY 40222			EXAMINER DANIELS, MATTHEW J	
			ART UNIT 1732	PAPER NUMBER
			MAIL DATE 04/06/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/695,177

Applicant(s)

ANDERSON, RICHARD N.

Examiner

Matthew J. Daniels

Art Unit

1732

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-13.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See the enclosed response to arguments.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Response to Arguments

1. Applicant's arguments filed 2 March 2007 have been fully considered but they are not persuasive. The arguments appear to be on the following grounds:

- a) The rejection states that land 14 of Fig. 5 of Curtis could be interpreted to be a crush rib, but there is no suggestion in Curtis that lands 14 would be crushed at any point during assembly or use. Additionally, there is glue between the lands and the insert. Additionally, the groove does not have the same profile from end to end.
- b) Pettersson is not for use in a glued joint. Curtis uses a glued joint. Pettersson's invention only functions if the two parts are able to move. There would be no reason to look to Pettersson to improve on the glued joint of Curtis.
- c) One would not add the rib of Pettersson to any of the designs of Curtis to allow for expansion and contraction because Curtis glues the reinforcing rod into place. Adding the rib of Pettersson would have no beneficial effect with respect to expansion and contraction because the glue would hold the parts fixed relative to each other and prevent collapse of the rib.
- d) The purpose of the rib of Pettersson is not keying, and there is no suggestion for the person of ordinary skill to add the rib of Pettersson to the design of Curtis for the purpose of keying or increasing the surface area for adhesion. The use of the crush rib of Pettersson with Curtis would decrease the area available for adhesion by contacting the reinforcement. The crush rib of Pettersson is also longitudinal and would do nothing to prevent shifting between the beam and rod
- e) The combination of Pettersson with Curtis would not provide a particular glue thickness because the rib would cause the rod to tip to one side, and would defeat the stated purpose.

Art Unit: 1732

f) There is no teaching of the deforming of the crush rib.

g) Pettersson prevents alignment and abutting, which would cause warping. There is nothing in Curtis to suggest crushing a crush rib to bring the top surfaces into alignment.

2. These arguments are not persuasive for the following reasons:

a, f) The drawings of Curtis do not provide guidance regarding the size or area ratios of the lands (Fig. 5, item 14) and the ribs (Fig. 5, item 30). When a fiberglass rod (4:30) is inserted into a groove made from wood, wood flakes and resin, or other materials (3:40-65) having a ribbed structure, both surfaces having been coated with adhesive (3:40-65), some deformation would be implicit in fitting the rod. While it is noted that the figures do not show grooves having the same point from end to end, it is not argued that there would be a material difference due to the claimed configuration over the transverse ribs or lands disclosed by Curtis. The grooves would perform in the same or substantially the same way, the only difference being the particular direction provided to the crush ribs. There is no evidence that the particular configuration is different than the transverse rib structure of Curtis. However, as explained in the rejection, the combination of Curtis and Pettersson further reads on the claimed invention.

b, c) In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Any failure by Pettersson to teach glue would not negate the combination. Pettersson teaches spacing as one effect of the

Art Unit: 1732

invention (Fig. 5), and Curtis suggests that a particular spacing is desirable (3:65-68) which would suggest the combination.

d) In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The Examiner's position is that the teaching of Curtis to physically modify the groove in order to facilitates adhesion (4:13-15) is sufficient to suggest modification of grooves in the manner provided by Pettersson. Curtis is non-limiting in the type of modification provided (See Figs. 5 and 7).

e) Pettersson teaches that multiple ribs are possible (Fig. 6), which would stabilize the insert.

g) The materials of Curtis are primarily wood, wood flakes and resin, or other materials (3:40-65) which would be softer than the fiberglass rod insert. Some deformation would be implicit when the rod is placed into a groove in the combined method. The method of Curtis already provides transverse ribs and top surfaces in alignment (Figs. 3 and 4).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Daniels whose telephone number is (571) 272-2450.

The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

Art Unit: 1732

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJD 4/2/07

MJD


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4/4/07